

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/owner: Deborah Eaton
32A Round Hill Road, Northampton, MA 01060

Date application filed with the Town Clerk: July 27, 2010

Nature of request: To construct six (6) additional apartment units in a separate structure on a lot containing a four (4) unit dwelling, under Section 3.323 of the Zoning Bylaw

Address: 13-15 High Street (Map 14B, Parcel 129 & 234, B-N District)

Legal notice: Published on September 1, 2010 and September 8, 2010 in the Daily Hampshire Gazette and sent to abutters on September 1, 2010

Board members: Tom Simpson, Barbara Ford, Hilda Greenbaum

Submissions:

- ZBA application, filed July 27, 2010;
- Project summary & management plan, revised September 9, 2010;
- Existing conditions & context plan, dated July 22, 2010;
- Site plan, landscaping & lighting plan, dated July 22, 2010, last revised on September 9, 2010;
- Floor plans & elevations, dated July 22, 2010;
- Utility plan, dated July 23, 2010;
- Stormwater management plan, dated prepared by Sara Campbell, P.E.;
- Existing apartment floor plans & elevation (photograph);
- Lease agreement & police report;
- Letter from Cold Spring Environmental Consultants, dated September 9, 2010.
- Applicants 10.38 responses, dated September 10, 2010;
- Applicants Phased Growth responses, dated September 10, 2010.

Submitted by Staff:

- Planning Board Report to Town Meeting – Article 11 – Neighborhood Business;

- Planning Board Report to Town Meeting – Article 12 – Depot Center Rezoning;
- Town GIS map showing Zoning Districts and surrounding properties, dated September 10, 2010;
- Phased Growth Tally Sheet;
- Design Review Board criteria, Sections 3.2040 and 3.2041.

Submitted by others:

- Email from William Thompson, dated September 2, 2010;
- Email from F.R. Higgins, dated September 10, 2010;
- Letter from Town Engineer, dated September 14, 2010;
- Utility Plan prepared by Sara Campbell, P.E., last revised September 10, 2010;
- Email from Town Council containing opinion, dated September 16, 2010;
- Letter from Fire Department, dated September 23, 2010;
- Letter from applicant requesting withdrawal, dated September 28, 2010.

Site Visit: September 13, 2010

The Board members and Town Staff met the applicant, Deborah Eaton, her husband, Bryan Bruce, and architect, Bill Gillen, on site. The Board members observed the following:

- The location of the property on the east side of High Street bordered to the north by the New England Central Railroad line; to the south by a mixed use building and a single family dwelling; and, to the east by two (2) single family dwellings;
- The existing 2 1/2 story residential building containing 4 apartment units;
- The existing parking area running generally east/west along the north side of the property adjacent to the New England Central Railroad;
- The location of the easterly property line running generally close to or below the top of the slope. This area appeared to contain some existing vegetation. The approximate location of the mature Maple tree in the south east corner was identified;
- The approximate location of the south property line;
- The approximate location of the corners of the proposed building relative to the property lines.

The Board members and applicant viewed the subject property from the following properties and observed the following:

558 Main Street owned by Nancy and Roger Higgins:

- The exterior of the existing single family dwelling and rear yard adjacent to the subject property. The rear yard consists of mature garden vegetation and contains a deteriorating retaining wall;
- The rear section of the property contained tall evergreen trees and a small detached shed situated on or close to the north and east property lines;
- The view looking north facing the subject property and where the south elevation of the proposed building would be.

576 Main Street owned by Maureen and Micah Raab:

- The existing single family dwelling and rear yard adjacent to the subject property. The large rear yard consists of extensive open areas and formal garden;
- The westerly property line contains a significant slope upward containing significant mix of existing evergreen and deciduous vegetation;
- The view looking west facing the subject property where the east elevation of the proposed building would be.

30 North Whitney Street owned by William Thomson:

- The existing single family dwelling and rear yard adjacent to the subject property. The rear yard consisted of a grassy area and an area of thick natural vegetation;
- The westerly property line contains a slope upward populated by a mix of existing evergreen and deciduous vegetation;
- The view looking west facing the corner of the subject property where the proposed parking area would be.

Public Hearing: September 16, 2010

Ms. Eaton was accompanied by her husband, Bryan Bruce. Ms. Eaton stated the following:

- Town staff informed her today that a section of the Zoning Bylaw was misinterpreted by the Planning Department and Inspection Services. She now requires additional time to determine whether or how the change may impact the project;
- Continuing the hearing to September 28, 2010 would provide a reasonable amount of time to review the new information.

Several members of the public requested the opportunity to comment on the applicant's proposal. Mr. Simpson noted that the Board does not need to accept public comment on the request to continue the hearing, but noted that the reason for the withdrawal ~~was~~ related to lot coverage and/or other dimensional aspects of the Zoning Bylaw.

Mr. Simpson MOVED to continue the public hearing to September 28, 2010 at 7:30 p.m. Ms. Ford seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: September 28, 2010 (continued from September 16, 2010)

Ms. Eaton was accompanied by her husband, Bryan Bruce.

Mr. Simpson read the letter submitted by the applicant, dated September 28, 2010, which stated that the applicant is requesting withdrawal, without prejudice, of the current application. The letter noted that the application was filed under the wrong section of the Zoning Bylaw and that it is the applicant's intent to re-file the application under the town house section of the Zoning Bylaw.

Ms. Greenbaum disclosed that a complaint was filed stating that she had a conflict of interest, and potentially a financial interest, in this case. She stated the following:

- She consulted with an attorney at the State Ethics Commission who determined that there is no factual basis for the complaint;
- She stated that she has filed the necessary paperwork under Chapter 268A Section 19 and 23 which states that there is no conflict and that she can hear the case objectively.

Public Meeting – Zoning Board Decision

Ms. Greenbaum MOVED to accept the request to withdraw the permit, without prejudice. Ms. Ford seconded the motion. The Board VOTED unanimously to accept the withdrawal, without prejudice, of the application, ZBA FY2011-00005, to construct six (6) additional apartment units in a separate structure on a lot containing a four (4) unit dwelling, under Section 3.323 of the Zoning Bylaw, at 13-15 High Street (Map 14B, Parcel 129 & 234, B-N District).

TOM SIMPSON

BARBARA FORD

HILDA GREENBAUM

FILED THIS _____ day of _____, 2010 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2010.
NOTICE OF DECISION mailed this _____ day of _____, 2010
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2010,
in the Hampshire County Registry of Deeds.